IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO.461 OF 2003

State of Maharashtra .. Appellant

versus

Smt.Hameeda Idris Sahibole & Anr.. Respondents

...

Mr.A.M. Shringarpure for the appellant.

None for the respondents.

CORAM : V.M. KANADE, J

DATED : 14th September 2004.

P.C:-

1. The State has preferred an appeal against the judgement and order passed by Jt.Judicial Magistrate First Class, Dapoli whereby the respondent accused has been acquitted of the offences punishable u/s.325, 323, 504, 506 r/w sec.34 of the IPC. The trial Court has observed that medical Officer has not been examined and as a result it was not proved that the complainant had sustained grievous hurt. Further, the

trial Court has also observed that the accused had also filed a cross complaint on the same date and he had also received injuries. In paragraph no.14 of the judgement, the trial Court has observed that if the prosecution does not explain the injuries received by the accused in the same incident adverse inference should be drawn and the accused is entitled to get the benefit of doubt.

2. The trial Court after appreciating the evidence on record has observed that from the evidence and cross examination, it was difficult to ascertain as to who was the aggressor. The trial Court has also observed that Hameeda had sustained simple injury after perusing the medical certificate. The trial Court has given cogent reasons for giving benefit of doubt to the accused. I do not see any reason to interfere with the said order.

3. Leave is therefore, refused. Appeal is rejected.

V.M. KANADE, J